

MICHIGAN EMPLOYMENT SECURITY ACT (EXCERPT)
Act 1 of 1936 (Ex. Sess.)

421.19a Solvency tax; determination; payment; deferral; appropriation; repayment; payment of amounts obtained into contingent fund; crediting amounts to employers' experience accounts; past due payments; interest and penalties; adjustments and refunds; appeals; qualification for federal interest relief provisions and federal unemployment tax credits; forgiveness or postponement of interest.

Sec. 19a. (1) Except for the first 4 consecutive years of liability, a contributing employer is subject to a solvency tax for a calendar year after 1982 if the employer's experience account has a negative balance on the June 30 preceding that calendar year, and if on the June 30 preceding that calendar year the balance in the unemployment compensation fund is less than the total amount of unrepaid interest bearing advances from the federal government to the fund under section 1201 of the social security act, 42 USC 1321, or the commission projects that interest will be due during the calendar year on federal advances and there will be insufficient solvency tax funds in the contingent fund to meet the federal interest obligations when due or there are outstanding advances from the state treasury from the previous year and any interest thereon and there will be insufficient solvency tax funds in the contingent fund to repay such advances and interest. The solvency tax rate is in addition to the employer's contribution rate and is not subject to the limiting provisions of section 19(a)(6).

(2) The solvency tax rate shall be determined for the respective calendar years as follows:

(a) For the 1983 calendar year, the solvency tax rate shall be 0.5%.

(b) For the 1984 calendar year, the solvency tax rate shall be 1%.

(c) For the 1985 calendar year, the solvency tax rate shall be calculated in the manner provided in this subdivision. By February 1, 1985, the commission shall estimate the amount of interest due on federal loans during the 1985 calendar year, without regard to any deferral permitted under section 1202(b)(3) or (8) of the social security act, 42 USC 1322, the amount of funds required for the unemployment insurance automation project for the 1985 calendar year, and the amount of deferred solvency taxes which cannot be collected because of employer bankruptcies. The total of these estimated amounts plus any amounts advanced from the state treasury under subsection (3) during the 1984 calendar year and any interest thereon shall be divided by the estimated total taxable payroll for the 1985 calendar year of all active employers who had negative balances in their experience accounts as of June 30, 1984. Total taxable payroll shall be estimated by using the total taxable payroll for those employers for the 12-month period ending June 30, 1984 and adjusting this figure for any change in the taxable wage limit for the 1985 calendar year. The solvency tax rate thus calculated for the 1985 calendar year shall be adjusted to the next highest 1/10 of 1%, but shall not exceed 2%.

(d) For the 1986 calendar year, the solvency tax rate shall be calculated in the manner provided in this subdivision. By February 1, 1986, the commission shall estimate the amount of interest due during the 1986 calendar year on federal loans, without regard to any deferral that may be permitted under section 1202(b)(3) or (8) of the social security act, 42 USC 1322, the amount of funds required for the unemployment insurance automation project for the 1986 calendar year, and the expected balance on December 31, 1986, if any, of unrepaid interest bearing federal advances. The total of these amounts plus any amounts advanced from the state treasury under subsection (3) during the 1985 calendar year and any interest thereon shall be divided by the estimated total taxable payroll for the calendar year of all active employers who had negative balances in their experience accounts as of June 30, 1985. Total taxable payroll shall be estimated by using the total taxable payroll for those employers for the 12-month period ending on June 30, 1985 and adjusting this figure for any change in the taxable wage limit for the 1986 calendar year. The quotient shall be adjusted to the next highest 1/10 of 1%. If this adjusted percentage is 0.8% or less, the employer's solvency tax rate for the 1986 calendar year shall be the adjusted percentage calculated. If the adjusted percentage is more than 0.8%, the employer's solvency tax rate shall be calculated in the same manner as the account building component of the employer's contribution rate as determined under section 19(a)(4), adjusted to generate aggregate solvency tax revenues sufficient to pay the interest due during the year on federal loans, to pay for the unemployment insurance automation project, to repay the balance of interest bearing loans by December 31, 1986, and to repay amounts advanced from the state treasury during the 1985 calendar year and any interest thereon, but shall not exceed the lesser of 1/4 of the percentage calculated or 2%.

(e) For calendar years after 1986, the solvency tax rate shall be calculated as follows:

(i) If there is no balance on December 31, 1986, of unrepaid interest bearing federal advances, the solvency tax rate, if any, shall be calculated in the same manner as the account building component of the employer's contribution rate as determined under section 19(a)(4), but shall not exceed the lesser of 1/4 of the percentage

calculated or 2%.

(ii) If there is a balance on December 31, 1986, of unrepaid interest bearing federal advances, the solvency tax rate for the 1987 calendar year and for each calendar year thereafter shall be calculated in the manner provided in this subparagraph until the balance of the interest bearing federal advances on December 31, 1986 has been reduced to zero. By February 1 of the calendar year, the commission shall calculate the sum of (a) the estimated interest due during the calendar on federal loans, without regard to any interest deferral which may be permitted under section 1202 of the social security act, 42 USC 1322, (b) the estimated amount of funds required for the unemployment insurance automation project, (c) the remaining balance on December 31 of the preceding year of the December 31, 1986 balance of unrepaid interest bearing federal advances, and (d) any amounts advanced from the state treasury under subsection (3) during the preceding year and any interest thereon. For purposes of calculating the remaining balance, any loan repayments during the year shall first be applied toward reducing the December 31, 1986 loan balance. The amount so calculated shall be divided by the estimated total taxable payroll for the calendar year of all active employers who had negative balances in their experience accounts as of June 30 of the previous year. Total taxable payroll shall be estimated by using the total taxable payroll for such employers for the 12-month period ending June 30 of the previous calendar year and adjusting this figure for any change in the taxable wage limit for the calendar year. The quotient shall be adjusted to the next 1/10 of 1%. If this adjusted percentage is 0.8% or less, an employer's solvency tax rate for that calendar year shall be the percentage calculated. If the adjusted percentage is more than 0.8%, the employer's solvency tax rate shall be calculated in the same manner as the account building component of the employer's contribution rate as determined under section 19(a)(4), adjusted to generate sufficient aggregate solvency tax revenues to pay the interest due during the year on federal loans, to pay for the unemployment insurance automation project, to repay the remaining balance of the December 31, 1986 balance of unrepaid federal interest bearing loans, and to repay advances from the state treasury and any interest due thereon, but shall not exceed the lesser of 1/4 of the percentage calculated or 2%. For any calendar year after the first calendar year that the remaining balance of the December 31, 1986 balance of unrepaid interest bearing federal advances has been reduced to zero by December 31 of that year, an employer's solvency tax rate shall be calculated in the same manner as the account building component of the employer's contribution rate as determined under section 19(a)(4), but shall not exceed the lesser of 1/4 of the percentage calculated or 2%.

(iii) Notwithstanding subparagraph (i), if there is no interest bearing federal loan balance on December 31, 1986, but the state will have interest due during the 1987 calendar year on federal advances made prior to January 1, 1987, or the state must repay in the 1987 calendar year any advances made from the state treasury during the 1986 calendar year, plus any interest thereon, the employer's solvency tax rate for the 1987 calendar year shall be calculated in the same manner as in subparagraph (ii). If there is no federal interest bearing loan balance on December 31, 1986, and there will be no federal or state interest due during the 1987 calendar year based on advances made prior to January 1, 1987, but on June 30, 1986, the balance in the unemployment compensation fund was less than the total amount of unrepaid interest bearing federal advances, the employer's solvency tax rate for the 1987 calendar year shall be zero.

(3) Solvency taxes shall become due and payable in the manner, and at the times, specified for contributions in rules promulgated by the commission. However, if the state is permitted to defer interest payments due during a calendar year under section 1202(b)(3) or (8) of the social security act, 42 USC 1322, payment of the solvency tax may likewise be deferred by an employer and paid in installments in a manner prescribed by the commission. If a deferral of interest payment is subsequently disallowed by the United States department of labor, either prospectively or retroactively, amounts of solvency taxes deferred under this section shall become immediately due and payable. Further, if the commission estimates that the solvency taxes to be collected by September 30 of the calendar year will be insufficient to meet the interest obligations due during that calendar year, the percentages of amounts of solvency taxes deferred in any year shall be reduced by the commission in an amount sufficient to meet the interest obligations due in that calendar year. Furthermore, if the amount of solvency taxes to be collected by the time the federal interest obligations are due in any year are insufficient to meet the obligations when due, the commission shall recommend to the legislature that it appropriate an amount sufficient to meet the interest obligations due. Any amount so appropriated and used to pay federal interest obligations, and interest due on such state appropriation, if any, shall be repaid to the state as soon as possible from the solvency tax revenues in the contingent fund.

(4) Amounts obtained pursuant to this section shall be paid into the contingent fund created under section 10 and, except for solvency taxes transferred to the unemployment compensation fund as provided in this subsection, shall not be credited to the employer's experience account. Amounts collected from solvency taxes which are transferred to the unemployment compensation fund and used to repay federal advances to the unemployment compensation fund shall be credited to the employers' experience accounts by June 30 of the

year following the calendar year in which the transfer occurred. The amount to be credited to an employer's account shall be determined by the commission, but shall reasonably reflect each employer's pro rata share of the amount transferred. Past due payments of the solvency tax shall be subject to the interest, penalty, assessment, and collection provisions of section 15. Interest and penalties collected shall be paid into the contingent fund. Adjustments and refunds of erroneously collected solvency taxes shall be made in accordance with section 16. Solvency tax determinations are appealable under the appeal process provided for review and appeal of determinations under this act.

(5) If any provision of this section prevents the state from qualifying for any federal interest relief provisions provided under section 1202 of the social security act, 42 USC 1322, or prevents employers in this state from qualifying for the limitation on the reduction of federal unemployment tax act credits as provided under section 3302(f) of the federal unemployment tax act, 26 USC 3302(f), that provision is invalid to the extent necessary to maintain qualification for the interest relief provisions and federal unemployment tax credits.

(6) Notwithstanding any other provision of this section, if interest due during a calendar year on federal advances is forgiven or postponed under federal law and is no longer due during that calendar year, no solvency tax shall be assessed against an employer for that calendar year and any solvency tax already assessed and collected against an employer before the forgiveness or postponement of the interest for that calendar year shall be credited to the employer's experience account.

History: Add. 1982, Act 535, Eff. Jan. 2, 1983;—Am. 1983, Act 247, Imd. Eff. Dec. 5, 1983;—Am. 2009, Act 1, Imd. Eff. Mar. 11, 2009.

Compiler's note: In subsection (2)(e)(ii) of this section, "interest due during the calendar on federal loans" evidently should read "interest due during the calendar year on federal loans".

Former MCL 421.19a, pertaining to employment security provisions applicable to the state and its political subdivisions, was repealed by Act 231 of 1971.